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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-----------------------|---------------------|------------------|
| 09/997,036 | 11/27/2001 | Daniel Y. Abramovitch | 10970174-4 | 3511 |
| 22879 | 7590 | 01/18/2006 | EXAMINER | |
| HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400 | | | TRAN, THANG V | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2653 | |

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/997,036 | Applicant(s) ABRAMOVITCH ET AL. | |
| | Examiner Thang V. Tran | Art Unit 2653 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-210 is/are pending in the application.
- 4a) Of the above claim(s) 110-210 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-34 and 36-109 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 35 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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The communication dated 07/09/04 has been considered with the following results:

Election/Restrictions

1. Newly submitted claims 110-210 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The original presented inventions including claims 1-109 are directed to an optical disk/optical recorder particularly related to a reference clock structure formed along servo tracks permitting the generation of a clock signal which control where transition edges of data mark are written to a recording layer with sub-bit accuracy, or a reference clock structure formed along a servo track having a spatial frequency that is within a spatial frequency spectrum of the data and permitting the generation of a clock reference signal used for writing data.

Newly presented invention including newly added claims 110-210 are directed to an optical disk, optical recorder, method and system particularly related to a high spatial frequency clock reference structure formed along a servo track.

Accordingly, the original presented inventions are distinct from the newly presented inventions is that the original presented inventions can be used or operated without the high spatial frequency clock reference structure, and the newly presented inventions can be used or operated without controlling where transition edges of data mark written to a recording layer with sub-bit accuracy, or without a reference clock structure having a spatial frequency that is within a spatial frequency spectrum of a recorded data.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the

merits. Accordingly, claims 110-210 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claims Objections

2. Claim 35 is objected to because of the informalities indicated below. Appropriate correction is required.

In claim 35, line 1, the term --recorder-- should be inserted after the term “disk”; and
line 2, this line should be replaced with --an optical disk having a recording
layer containing servo tracks;--

The reason for the changes above is because claim 35 is apparently directed to an optical disk recorder rather than an optical disk alone (see last five lines of claim 35).

3. This application is in condition for allowance except for the above formal matters. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Response to Arguments

4. Applicant's arguments with respect to the recapture rejection have been fully considered and are persuasive. Therefore, the recapture rejection applied to claims 38-100, 102, 104 and 106-109 have been withdrawn.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thang V. Tran whose telephone number is (571) 272-7595. The examiner can normally be reached on M-F 9:30AM-6:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thang V. Tran
Primary Examiner
Art Unit 2653